

Before the
Federal Communications Commission
Washington, DC 20554

In re Petition of)	
West Coast PCS, LLC)	
for Waiver of the Requirements)	CC Docket No. 94-102
of Section 20.18 of the)	
Commission's Rules Regarding)	
the Provision of E-911 Service)	

To: Chief, Wireless Telecommunications Bureau

PETITION FOR WAIVER

West Coast PCS, LLC, d/b/a SureWest Wireless ("SureWest")¹, by its attorneys, hereby petitions the Commission for a waiver from the requirement of Sections 20.18 (e) and (g) of the Commission's Rules. Those rules require certain mobile carriers to provide enhanced 911 service no later than six months after a request from a Public Safety Answering Point ("PSAP") is received, if a network based solution is implemented, or on a gradually phased-in basis beginning October 1, 2001 if a handset solution is adopted. To date, no PSAP has made a request to SureWest for Phase II E-911 service.

As set forth below, SureWest has conducted extensive research into Phase II solutions and realizes that neither the handset nor the network solution is technically feasible at this time. The core obstacle faced by SureWest, and the reason for which it

¹ SureWest is the licensee of Broadband PCS stations KNLG245, KNLH726, KNLH727 and KNLH728. These stations serve four Basic Trading Areas in California - Modesto, Sacramento, Stockton and Yuba City.

seeks this waiver, is that suitable equipment is not currently manufactured and available for SureWest to use with its wireless system.

I. Background

SureWest is a PCS carrier operating in four BTAs located in Central and Northern California. As it has developed as a provider of wireless services, SureWest has taken advantage of the latest technologies and has made high quality mobile telecommunications services available to its customers. SureWest recognizes that one of its commercial advantages is its manageable size and consummate ability to provide personal service to its customers.

However, SureWest's size also limits its ability to negotiate in the wholesale wireless product and network component (both software and hardware) market and manufacturing distribution chain. SureWest has been advised these E-911 compliant products are not yet manufactured. Therefore, SureWest does not command enough of a market share to control or demand product manufacturing output. All these factors adversely impact SureWest's attempt to comply with E-911 regulations.

Secondly, again due to its size, when manufacturers produce E-911 compliant products and announce general availability, SureWest anticipates that larger carriers will be provided with initial access to the products. Surewest will certainly be low in the pecking order, and this will delay the provision of the E-911 compliant products.

Pursuant to Commission requirements in CC Docket No. 94-102, SureWest (under its former trade name of RCS Wireless) notified the Commission of its willingness to comply with E-911 regulations and its intention to employ a handset-based solution for E-911. *See* Response to Request for Information, filed by RCS Wireless, TRS No. 819194, CC Docket No. 94-102. However, as SureWest noted at that time (and in preceding paragraphs), its relative size in the mobile services marketplace diminishes its ability to have any control over the provision price or development of manufacturer's equipment.

A. A Handset-Based Solution is in Development.

SureWest has diligently approached its equipment suppliers and determined that both the switching and mobile equipment necessary for the implementation of a handset solution is not currently available. SureWest has been advised that ALI interpreting switching equipment is not yet manufactured for retail availability and that mobile units which could accommodate GPS data are not yet manufactured for mass market use.

Overall system SureWest has contracted with a telecommunications consulting firm which has attempted to develop the equipment and software elements required for a handset-based solution. The consulting firm has developed general plans, but has encountered problems with implementation due to the current unavailability of the necessary system components.

Switching Components SureWest uses an industry-standard Lucent Technologies CDMA-based network of base station and switching equipment. The Lucent equipment is relatively new and was state of the art when it was acquired by

SureWest. However, SureWest has encountered significant hardships in deploying an E-911 solution. SureWest has been advised by Lucent product distributors that the necessary switching equipment and software to interpret and transmit ALI from handsets to a PSAP is not currently available for distribution.²

Mobile Unit Components SureWest also has contacted distributors and manufacturers on the mobile side of its equipment provisioning. These vendors, including Nokia and Kyocera, have advised SureWest that their situation is similar to that of the switching equipment and software providers - equipment is not yet available.

SureWest additionally notes that when vendors eventually do provide such equipment, the General Availability Date of such equipment reflects the availability of equipment to the entire market. Unfortunately, as indicated before, that market is overshadowed by massive carriers who, due to their scale, will likely be provided with most of the initial units of output. Such control will render the General Availability Date a mere benchmark for larger carriers and of little application to small carriers such as SureWest.

Finally, SureWest recognizes that it has limited central control over its mobile unit deployment. Mobile units are maintained by customers, some of whom are reluctant to upgrade or release their units for economic reasons or other retail consumer rationales.

² Lucent Technologies anticipates that such elements will be developed and available for distribution to small carriers, such as SureWest, within eighteen (18) months.

Thus, distribution of compliant mobile units may be difficult for SureWest to complete within the time specified by the Commission's rules.

B. An Alternative Network-Based Solution is Impractical.

In an effort to exhaust all possibilities, SureWest conducted a substantial review of implementing a network based solution. SureWest's review revealed that engineering requirements for a network-based solution rendered such a solution impractical.

Primarily, SureWest's radiofrequency design is not compatible with a network-based solution. SureWest's footprints in Sacramento, Stockton and Modesto are cast by a clustered system of transmitters that could accommodate a network based triangulation solution in those few areas. However, throughout its markets, a vast number of SureWest's transmitters are deployed in a "hand-off" design. This "hand-off" architecture eliminates the practicality or feasibility of any network-based solution to conduct triangulation readings from a single cell site.

II. A Waiver is Warranted.

Section 1.925(b)(3)(ii) of the Commission's Rules permit a waiver in cases, such as SureWest's case, where,

[i]n view of the unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.

In adopting the *Fourth Memorandum Opinion and Order* in this proceeding, the Commission continually recognized that there are instances where “technology-related issues or exceptional circumstances may mean that deployment of Phase II may not be possible by October 1, 2001.”³ Technology-related issues are the precise obstacles which are now faced by SureWest.⁴

The Commission provided an outline of the prerequisites for a waiver. A waiver should be specific, focused, and limited in scope and with a clear path to full compliance.⁵ Each of the prerequisites is met in the instant petition for waiver. SureWest seeks its waiver for the limited time necessary for such equipment to become generally available to medium and small sized mobile service providers.

As explained above, SureWest currently does not have the technical ability to deploy a handset-based E-911 solution. To wit, SureWest focuses upon Section 20.18(e) and (g) of the Commission’s Rules and seeks a specific waiver of these sections. This

³ See, Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Fourth Report and Order*, CC Docket No. 94-102, 14 FCC Rcd 17442, 17457 (2000) (*Fourth Report and Order*), referring to, *First Report and Order*, 11 FCC Rcd. 18710, 18718 (1996).

⁴ In addition to technical impediments, financial impediments may also be considered by the Commission in granting waivers. In describing its E-911 compliance measures to the U.S. Court of Appeals for the District of Columbia Circuit, the Commission represented that waivers would be available to alleviate the burden of E-911 service for carriers who will be uniquely burdened financially. *U.S. Cellular v. FCC*, Case No. 00-1072, D.C. Cir., FCC Brief at 42. In addition to the technical restrictions faced by SureWest, the financial burdens facing SureWest for upgrades and redistribution of mobile units will be significant.

⁵ *Fourth Report and Order* at 17458.

waiver request does not seek an open-ended exemption, but provides that SureWest will comply with the Commission's rules when marketplace and technological availability can adequately supply requisite equipment. SureWest's request falls squarely into the parameters which the Commission has laid out for a "specific, focused, and limited" waiver request. Since the requisite equipment is unavailable to SureWest, it would be inequitable to apply the rule sections for which this waiver is sought.

Due to the lack of available equipment, SureWest has no reasonable alternative but to seek a waiver of Section 20.18 (e) and (g) of the Commission's Rules. In an attempt to explore alternative solutions, SureWest has been so thorough as to have conducted an analysis of whether it could comply with Section 20.18 (f) of the Commission's Rules and adopt a network-based E-911 solution. As noted, *supra*, SureWest's studies revealed that its current radio frequency overlay does not permit a network-based solution and no feasible network-based alternative could be employed.

SureWest has made aggressive efforts in attempting to comply with handset-based E-911 solutions. However, it has encountered difficulty in obtaining the basic mobile and switch elements to employ such a system. This lack of equipment availability is beyond the control of SureWest and SureWest respectfully submits that this situation merits a limited waiver of Section 20.18(e) and (g).

III. Timetable for Compliance.

Grant of this waiver request would permit SureWest to implement Phase II when the necessary equipment becomes available and when technological and market outputs mature to the point where they are able to meet the demand of small and medium service providers. Through the economies of scale achieved when the industry has matured, the refinement of equipment will have reached an optimal point for consumers and the market. Thus, both the public consumer and the service provider will obtain a technologically superior product at a marginally acceptable level.

A. History of Phase I Deployment

SureWest has already identified and associated the appropriate PSAP with each of its numerous transmission locations. SureWest currently directs all 911 emergency traffic to the PSAP which has been associated with each cell site. Mobile unit users are able to connect to a PSAP that can dispatch the emergency response to the service area from which a 911 call is placed.

The State of California, the only state jurisdiction within which SureWest currently provides mobile service, has not established final requirements for E-911 information format and content. As soon as the State issues final requirements, SureWest will comply with the same and will provide California PSAPs with the Phase I information and content sought by the California authorities. Phase I information which SureWest will provide to PSAPs includes the necessary cell site and sector information associated with an originating mobile call.

B. No Phase II Requests have been made to SureWest

As noted *supra*, the State of California is currently developing and finalizing PSAP and E-911 requirements which will be applicable to wireless licensees. In addition, at this time, no PSAP or other authority has made a Phase II request to SureWest.

C. Phase II Relief Sought and Implementation Plan

To ensure that products are available, SureWest proposes an eighteen month waiver of the Section 20.18 (e) and (g). SureWest believes, based upon supplier representations and industry developments, that an eighteen month waiver of Sections 20.18 (e) and (g) will permit the industry to develop appropriately and make equipment reasonably available to SureWest..

Under its proposed timetable, SureWest suggests that the Commission's grant of an eighteen month waiver would be reflected in a phase-in schedule which provides that SureWest would:

- i) begin selling and activating location capable handsets no later than September 1, 2002;
- ii) ensure that at least 50 percent of all new handsets activated are location-capable no later than April 1, 2003;
- iii) ensure that at least 95 percent of all new digital handsets are location-capable no later than April 1, 2004; and
- iv) upon receiving a PSAP request, comply with Section 20.18(g)(2)(i) no later than April 1, 2003.

IV. Conclusion

For good cause shown herein, SureWest respectfully requests a waiver of Section 20.18(e) and (g) of the Commission's Rules. The Commission may contact SureWest's federal regulatory counsel, Paul J. Feldman of Fletcher, Heald & Hildreth, P.L.C., at 1300 North Seventeenth Street, Eleventh Floor, Arlington, Virginia 22209 or by telephone or telecopier at (703) 812-0400 and (703) 812-0486, respectively.

Respectfully submitted,
West Coast PCS, LLC d/b/a
SureWest Wireless

Dated: November 29, 2001

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